

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Subsection (f) of Section 7.00, Title 14, California Code of Regulations
Re: Southern District Steelhead Waters

I. Date of Initial Statement of Reasons: March 4, 2005

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: March 18, 2005
Location: Oakland

(b) Discussion/Adoption Hearing: Date: May 4, 2005
Location: Sacramento

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Current general regulations for the Southern Fishing District allow fishing all year with a five-fish bag limit in streams and tributaries (except those listed by name in the Special Regulations) above Twitchell Dam on the Cuyama River, above Bradbury Dam and below Gibraltar Dam on the Santa Ynez River; Robles Diversion Dam on the Ventura River; and Rindge Dam on Malibu Creek.

Steelhead trout populations within the Southern California Steelhead Evolutionarily Significant Unit (ESU), from the Santa Maria River (inclusive) to Malibu Creek, were listed by the federal government as endangered in October 1997. On May 2, 2002, the National Marine Fisheries Service (NMFS) extended the range of the Southern California Steelhead ESU from Malibu Creek to the Mexican border. As a federally listed endangered species, southern California steelhead are prohibited from being taken as defined by the federal Endangered Species Act (ESA).

In 2004 a fishway was constructed at the Robles Diversion that is designed to allow volitional passage of steelhead above the diversion. Currently there has been no verified passage by adult steelhead above the diversion. Monitoring of the fishway and upstream portions of the Ventura River and associated tributaries is ongoing. If passage of adult steelhead cannot be verified during the proposed regulation review period,

the Department will request that the Commission not act on this proposed regulation change. However, if adult steelhead passage is verified above Robles Diversion before these regulations can be adopted into law, the Department will initiate an emergency regulation proposal recommending that anadromous portions of all streams above the Robles Diversion immediately be closed to all fishing.

For angler clarification, the Department is proposing to describe the non-anadromous sections of Matilija Creek, and North Fork Matilija Creek and add these streams to the list of waters within the Southern District regulations that are open to angling.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315, and 316.5, Fish and Game Code.

Reference: Sections 200, 205, 206, 215, 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None
- (d) Identification of Reports or Documents Supporting Regulation Change: None
- (e) Public Discussions of Proposed Regulations Prior to Notice publication: None

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: None
- (b) No Change Alternative: A no-change alternative would cause angling regulations to be in noncompliance with the federal Endangered Species Act.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment;

therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Businesses and the public should ultimately benefit from the recovery of the species.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

- (e) Nondiscretionary Costs/Savings to Local Agencies: None

- (f) Programs mandated on Local Agencies or School Districts: None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

- (h) Effect on Housing Costs: None

Informative Digest/Policy Statement Overview

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